

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS WARSAW 004058

SIPDIS

DEPT FOR CA/OCS/CI

SENSITIVE

E.O. 12958: N/A

TAGS: [CASC](#) [KOCI](#) [PL](#)

SUBJECT: 2006 HAGUE COMPLIANCE REPORT PREPARATION -- POLAND

REF: A. 05 SECSTATE 220951, B. 05 WARSAW 4022

11. (SBU) We welcome the opportunity to provide comments related to Poland's compliance with The Hague Convention provisions. Although we generally agree with the negative portrayal of Poland's compliance efforts, we believe that Poland has made some small progress in its handling of Hague cases that should be recognized.

12. (SBU) As a result of recent presidential and legislative elections, a new government came into office on October 31, 2005, and a new President will be inaugurated on December 23, 2005. The new government and its supporters are made up of representatives of parties previously in opposition. As we have only just begun to work with this government as they formulate their policies, we advocate giving them an opportunity to work towards a resolution of the problems presented in reftel A before downgrading Poland to "not fully compliant".

13. (SBU) We have expressed our concerns regarding Poland's lack of compliance with the new government. On December 6, 2005, Ambassador Ashe met with the new Justice Minister, Zbigniew Ziobro, and raised this issue. The Minister was not familiar with the Convention, so we followed up by providing a background memorandum to him laying out the details of our concerns related to the Hague convention and Poland's lack of demonstrated ability to comply with its obligations. On January 30, 2006, Assistant Secretary Harty will be chair a session of the US/Poland Joint Consular Working Group, which will present another opportunity to raise Hague Convention compliance with GOP officials.

#### OTHER COMPLIANCE ISSUES

14. (SBU) Although we concur in part with the assessment in reftel A, we do wish to highlight the fact that this assessment is based upon evidence from very few cases. Post is currently following three Hague cases (Szuta, Mikolajczak and Sawicki) and it is difficult to make overall generalizations based on the limited evidence from these cases.

15. (SBU) Regarding the specific concerns raised in reftel, we agree with the description of the Szuta case as an egregious example of Poland's lack of compliance with the Hague convention. We also concur with the description of the difficulties experienced by left-behind parents in enforcing return orders. We do feel, however, that we may be seeing some signs of improvement in the way Hague cases are being handled in Poland. In the Sawicki case (reftel B) the court specifically rejected the taking parent's motion for psychological studies despite her allegations of abuse by the left-behind parent. The court also refused to hear testimony related to the current condition of the child as custody of the child was not at issue nor relevant to the Hague hearing. Regarding the time it has taken to hear cases and to reach a decision, the Sawicki court has been moving at a much faster pace than the court in Szuta. After a two-month delay caused by the unsuccessful motion of the left-behind parent for a change of venue to Warsaw, the case has moved forward relatively quickly. The final decision on Sawicki is due December 21, meaning the time from the denial of the change of venue motion to the issuance of the decision in the Hague case will be exactly 3 months.

ASHE